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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,725	10/12/2001	Casimer M. DeCusatis	FIS920010131US1(14564)	2486
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Steven Fischman, Esq. Scully, Scott, Murphy & Presser 400 Garden City Plaza Garden City, NY 11530				
EXAMINER				
CURS, NATHAN M				
ART UNIT		PAPER NUMBER		
2613				
MAIL DATE		DELIVERY MODE		
04/17/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/976,725

Applicant(s)

DECUSATIS ET AL.

Examiner

NATHAN M. CURS

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-9 is/are allowed.
- 6) ☒ Claim(s) 2 is/are rejected.
- 7) ☒ Claim(s) 1 and 10-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Objections

1. Claims 1, 10, 11 and 18 are objected to because of the following informalities:

In claim 1 lines 10-11, the following changes should be made to the newly added language to be consistent with the rest of the claim, "using said feedback signals to adjust the network or the optical signals channels in the network to compensate for the changes in the optical signals channels:". For the same reason, in line 13, "...and said feedback signals are used to compensate...", and in line 14, "...the optical signals channels in the network..."

In claim 10 line 3, "steps" should be "step".

In claim 11 line 5, "a bandpass function" should be "a plurality of bandpass functions" to be consistent with the newly added language that recites a filter bandpass for each wavelength.

In claim 18 line 8, "a bandpass function" should be "a plurality of bandpass functions" to be consistent with the newly added language that recites a filter bandpass for each wavelength.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 in lines 1-2 recites "the feedback mechanism is based on a wavelength locked loop". It's not clear from this language if the feedback mechanism actually *includes* a

wavelength locked loop; and if not, then it's not clear how the scope of the feedback mechanism is affected by being "based on" a wavelength locked loop. Further, the claim in lines 1-3 recites that "the feedback mechanism... allows a spectral decomposition... and hence enables the use of networks...". It's not clear from this language if the spectral decomposition is actually part of the method, nor is it clear what effect, if any, the claiming of "enables the use of networks" has on the scope of the claimed method. Further, the terms "very fast response corrections", "more wavelengths" and "more closely together" in claim 2 are relative terms which render the claim indefinite. The terms "very fast response corrections", "more wavelengths" and "more closely together" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention with respect to response speed, number of wavelengths and wavelength spacing.

Allowable Subject Matter

4. Claim 1 and claims 10-20 are objected to as described above, or for depending on an objected to parent claim, would be allowable if rewritten or amended to overcome the objections set forth in this Office action.
5. Claim 2 would be allowable if rewritten to overcome the rejection under 35 U.S.C. 112, 2nd paragraph, and the parent claim objections, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
6. Claims 3-9 are allowed.

Response to Arguments

7. Applicant's arguments filed 17 January 2008, with respect to the previous rejections under 35 USC § 112 have been fully considered and are persuasive. The previous rejections under 35 USC § 112 have been withdrawn.

Conclusion

8. Any inquiry concerning this communication from the examiner should be directed to N. Curs whose telephone number is (571) 272-3028. The examiner can normally be reached on M-F (from 9 AM to 5 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan, can be reached at (571) 272-3022. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/NATHAN M CURS/

Examiner, Art Unit 2613